

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 83
95TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, April 14, 2009, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0384S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 407.1240, 407.1243, and 407.1249, RSMo, and to enact in lieu thereof three new sections relating to travel clubs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 407.1240, 407.1243, and 407.1249, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 407.1240,
3 407.1243, and 407.1249, to read as follows:

407.1240. As used in sections 407.1240 to 407.1252, the following terms
2 shall mean:

- 3 (1) "Business day", every day except Sundays and holidays;
4 (2) "Holiday", any day that the United States Post Office is closed;
5 (3) "Membership fee", the initial or reoccurring fee that is unrelated to
6 actual pass-through costs associated with the use and enjoyment of travel
7 benefits;
8 (4) "Rescission statement", a statement that shall be printed on all
9 contracts pertaining to the purchase of travel club memberships from a travel
10 club that shall provide in at least fourteen-point bold type the following
11 statement:

12 "Assuming you have [not accessed any travel benefits and have] returned
13 to the travel club all materials delivered to the purchaser at closing, you have the
14 right to rescind this transaction for a period of three business days after the date
15 of this agreement. To exercise the right of rescission, you must deliver to the
16 travel club, either in person or by first class mail postmarked within the
17 three-business-day period, at the address referenced in this contract, a written

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 statement of your desire to rescind this transaction, and all materials **of value**
19 that were provided and given to you at the time of the purchase of your travel
20 club membership.";

21 (5) "Surety bond", any surety bond, corporate guaranty, letter of credit,
22 certificate of deposit, or other bond or financial assurance in the sum of fifty
23 thousand dollars that is required to be delivered by travel clubs which have been
24 adjudged to have violated subsection 4 or 5 of section 407.1252 and in the event
25 that such surety bond is accessed subsequent to posting as a result of the need
26 to reimburse purchasers, the amount of the surety bond shall be increased by ten
27 thousand dollars per reimbursement. All surety bonds shall:

28 (a) Serve as a source of funds to reimburse purchasers of travel club
29 memberships who validly exercise their rights under the rescission statement in
30 their contract but who are not, after judgment, provided a refund equal to the
31 purchase price of their unused travel club memberships or, after settlement,
32 equal to the terms of the settlement;

33 (b) Serve as a source of funds to reimburse purchasers of travel club
34 memberships who have been proven to be the subject of fraud;

35 (c) Remain in full force and effect during the period of time the travel club
36 conducts its business activities; and

37 (d) Be deemed acceptable to the attorney general if:

38 a. It is issued by an insurance company that possesses at least a "B+"
39 rating, or its equivalent by A.M. Best or its successors or by any other nationally
40 recognized entity that rates the creditworthiness of insurance companies;

41 b. It is in the form of a letter of credit that is issued by a banking
42 institution with assets of at least seventy-five million dollars;

43 c. It is in the form of a certificate of deposit; or

44 d. It is in a form that otherwise is acceptable to the attorney general;

45 (6) "Travel benefits", benefits that are offered to travel club purchasers
46 and customers that include all forms of overnight resort, condominium,
47 time-share, hotel, motel, and other rental housing of every nature; all forms of air
48 travel and rental car access; all forms of cruise line access; and all other forms
49 of discounted travel benefits of every nature;

50 (7) "Travel club", any business enterprise that either directly, indirectly,
51 or through the use of a fulfillment company or other third party offers to sell to
52 the public the reoccurring right to purchase travel benefits at prices that are
53 represented as being discounted from prices otherwise not generally available to

54 the public and charges members or customers a membership fee that collectively
55 equals no less than seven hundred fifty dollars.

407.1243. 1. No travel club may offer vacation benefits for sale unless the
2 travel club maintains an effective registration statement with the Missouri
3 attorney general that discloses the following information:

4 (1) The name of the travel club, including the name under which the
5 travel club is doing or intends to do business, if it is different from the name of
6 the travel club;

7 (2) The name of any parent or affiliated organization that will engage in
8 business transactions with the purchasers of travel benefits or accept
9 responsibility for statements made by, or acts of, the travel club that relate to
10 sales solicited by the travel club;

11 (3) The travel club's business type and place of organization;

12 (4) If the travel club is an entity, the travel club's formation and
13 governing documents, including articles of organization, bylaws, operating
14 agreements, and partnership agreements;

15 (5) If operating under a fictitious business name, the location where the
16 fictitious name has been registered and the same information for any parent or
17 affiliated organization disclosed under subdivision (2) of this subsection;

18 (6) The names and addresses of the principal owners, officers, and
19 directors of the travel club;

20 (7) The addresses where the travel club shall offer travel club
21 memberships for sale;

22 (8) The name and address of the registered agent in the state of Missouri
23 for service of process for the travel club; [and]

24 (9) A brief description of the travel club memberships the travel club is
25 offering for sale; **and**

26 **(10) The travel club has demonstrated that it possesses liquid**
27 **assets of at least two hundred fifty thousand dollars in the form of one**
28 **or more certificates of deposit or a letter of credit that is issued by a**
29 **banking institution with assets of at least seventy-five million**
30 **dollars. This provision shall also apply to renewals under section**
31 **407.1246. These liquid assets shall be available to the attorney general**
32 **in the event that the travel club is adjudged to have failed to satisfy**
33 **legal obligations to its members. Interest on any instrument provided**
34 **shall accrue to the travel club.**

35 2. The attorney general shall evidence his or her receipt, approval, or
36 disapproval, as the case may be, of a travel club's registration statement or
37 registration renewal statement within thirty days from and after the
38 submission. Upon compliance with the foregoing requirements, the attorney
39 general shall approve the registration statement. Should any registration fail to
40 address any of the registration conditions as set forth above, the attorney general
41 shall advise in writing the registration deficiencies and the manner in which said
42 deficiencies shall be cured. Such advice shall be provided by the attorney general
43 within fifteen working days from the initial filing of the documents.

44 3. Travel clubs that are operational prior to August 28, 2005, may
45 continue their business activities during the pendency of the attorney general's
46 processing of their registration statements; provided that such registration
47 statement is filed with the attorney general within ninety calendar days of
48 August 28, 2005. Registration of a travel club shall not be transferable.

49 4. The registration statement shall additionally have appended thereto:

50 (1) The form of contract under which the travel club proposes to sell travel
51 club memberships which contains the rescission statement;

52 (2) A check made to the order of the Missouri attorney general in the
53 amount of fifty dollars.

 407.1249. Assuming a purchaser [has not otherwise accessed any travel
2 benefits and] returns to the travel club all materials of value delivered to the
3 purchaser at closing, all purchasers of travel club memberships from a travel club
4 that is registered shall have the nonwaivable right for a period of three business
5 days after the date of their purchase to rescind and cancel their travel club
6 purchase and receive a full refund of all sums otherwise paid to the travel club
7 within fifteen business days of such rescission, minus the actual and reasonable
8 cost of processing the refund, including credit card fees if applicable. **Use of**
9 **travel club benefits during such rescission period shall not waive the**
10 **right afforded by this section.** Individuals who purchase travel club
11 memberships from a travel club that is not registered under sections 407.1240 to
12 407.1252 shall have a nonwaivable right for a period of three years from the date
13 of purchase to rescind and cancel their travel club membership and shall receive
14 a full refund within fifteen business days of such rescission.

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